



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re applications of:

Andrey A. Boukharov et al.

Appln. No.: 09/702,134

Filed: October 31, 2000

For: Plant Genome Sequences and Uses Thereof

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22314-1450

Art Unit: 1634

Examiner: Johannsen, Diana B.

Atty. Docket: 38-21(51237)F

Certificate of Mailing

I hereby certify that this Response to Restriction Requirement, is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on May 5, 2003

Gracie Williams

(Printed name of person signing this certificate)

Gracie Williams
(Signature)



Commissioner for Patents
May 5, 2003
Page 1 of 2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Re: U.S. Utility Patent Application No. 09/702,134
Filed: October 31, 2000
For: Plant Genome Sequences and Uses Thereof
Inventors: Andrey A. Boukharov *et al.*
Atty. Docket: 38-21(51237)F

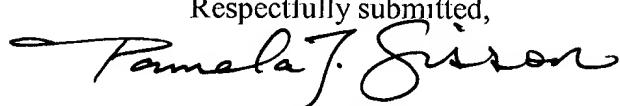
Sir:

Transmitted herewith for appropriate action by the U.S. Patent and Trademark Office (USPTO) are the following documents:

1. Response to Restriction Requirement (dated 04/08/03);
2. Certificate of Mailing for Response to Restriction Requirement; and
3. (1) Return receipt-postcard.

It is respectfully requested that the attached postcard be stamped with the date of Filing of these documents, and that it be returned to us. In the event that extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned.

The Commissioner is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 13-4125, referencing matter number 38-21(51237)F

Respectfully submitted,

Pamela J. Sisson (Reg. No. 53,600)
Date: 5. May 2003

Patent Department, E2NA Monsanto Company
800 N. Lindbergh Blvd.
St. Louis, Mo. 63167
Tel: 314-694-6343
FAX: 314-694-1671



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

ANDREY A. BOUKHAROV *et al.*

Appl. No.: 09/702,134

Filed: 10/31/2000

For: Plant Genome Sequences And Uses
Thereof

Art Unit: 1634

Examiner: JOHANNSEN, DIANA B.

Atty. Docket: 38-21(51237)F/16517.114

Response to Restriction Requirement

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action mailed April 8, 2003, Applicants submit the following remarks.

Remarks

The application presently contains claims 1-7. In the Office Action mailed April 8, 2003, the Examiner required restriction to one of the following inventions under 35 U.S.C. § 121:

Group I: Claims 1-4, drawn to nucleic acid molecules, classified in at least, for example, class 536, subclass 23.1; and

Group II: Claims 5-7, drawn to nucleic acid molecules, classified in at least, for example, class 536, subclass 23.6.

Applicants respectfully traverse the restriction requirement, and provisionally elect Group I (claims 1-4 drawn to SEQ ID NO: 7212) for further prosecution.

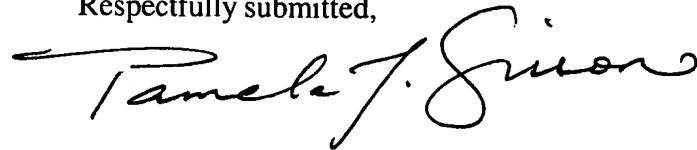
Applicants submit that the complete examination of the application would be handled most expeditiously by treating all of the pending claims as a single entity. As Section 803 of the MPEP directs, “[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.” Applicants respectfully submit that the Examiner has not shown that a search and examination of the entire application would cause a serious burden. Rather, a serious burden would arise if the application were restricted.

Applicants submit that the restriction requirement is inappropriate. For example, Applicants contend that Group I and Group II should be examined simultaneously because they are related as nucleic acid molecules. Accordingly, examination of Group I and II together would pose no undue burden to the Examiner. Furthermore, Applicants submit that restriction to a single nucleotide sequence is improper and Applicants believe no serious burden would result by the search and examination of at least ten nucleotide sequences. Applicants disagree that each nucleotide sequence in the application is necessarily a patentably distinct species, but provisionally elect Group I (nucleic acid molecules represented by SEQ ID NO: 7212) for further prosecution.

Based upon the foregoing, Applicants submit that the restriction requirement is improper and therefore should be withdrawn. To facilitate prosecution, however, Applicants have provisionally elected, with traverse, Group I (claims 1-4 drawn to SEQ ID NO: 7212).

Should the Examiner have any questions regarding this application, the Examiner is encouraged to contact Applicants' undersigned representative at (314) 694-6343.

Respectfully submitted,



DATE: May 5, 2003

Pamela J. Sisson
(Registration NO. 53,600)

Patent Department E2NA
MONSANTO COMPANY
800 N. Lindbergh Blvd.
St. Louis, MO 63167
Telephone: (314) 694-6343
FAX: (314) 694-1671